



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35594]

Eric Temple — Control Exemption — Portland Vancouver Junction Railroad, LLC

Eric Temple (applicant), a noncarrier individual, has filed a verified notice of exemption to acquire direct control of Portland Vancouver Junction Railroad, LLC (PVJR), a wholly owned subsidiary of Columbia Basin Railroad Company, Inc. (CBRW), upon his acquiring 100% of the membership interest in PVJR.

The transaction is expected to be consummated on or after March 7, 2012.

Applicant and Nicholas B. Temple directly control CBRW and Central Washington Railroad Company (CWA), and they indirectly control PVJR.¹ CBRW, CWA and PVJR are all Class III rail carriers that lease and operate rail lines between specified points within the State of Washington.²

Applicant states that: (1) PVJR does not connect with any rail lines of CBRW or CWA; (2) the transaction is not part of a series of anticipated transactions that would connect these rail lines with each other; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to

¹ Applicant states that Nicholas B. Temple and he each have a 50% ownership interest in CBRW and a 45% ownership interest in CWA.

² See Nicholas B. Temple, Eric Temple, Columbia Basin R.R., Cent. Wash. R.R. and Portland Vancouver Junction R.R.—Corporate Family Transaction Exemption, FD 35210 (STB served Jan. 16, 2009); and Nicholas B. Temple and Eric Temple—Control Exemption—Cent. Wash. R.R., FD 34641 (STB served Jan. 21, 2005).

relieve a rail carrier of its statutory obligation to protect the interests of its employees.

Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 29, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35594, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Rose-Michele Nardi., Weiner Brodsky Sidman Kider PC, 1300 19th St., N.W., Fifth Floor, Washington, DC 20036-1609.

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“WWW.STB.DOT.GOV.”

Decided: February 13, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

Docket No. FD 35594

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